

REMARKS

Claims 1-20 are pending in the application. By this amendment, new claim 40 has been added, and the specification has been amended. Applicant believes the amendments made herein add no new matter. Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based on prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to be attached thereto. Reconsideration and reexamination of the application is respectfully requested in view of the amendments and the following remarks.

Interview Summary

The courtesy of the interview granted to Applicant's attorney by Mr. Thomas, the Examiner in charge of this application, on May 28, 2009 is acknowledged with thanks and appreciation. During the interview, the Applicant's attorney and the Examiner discussed proposed amendments to the specification and addition of a new independent claim sent to the Examiner prior to the interview and made herein. During the interview, an agreement was reached that the proposed amendments to the specification overcome the Final Rejections to the claims discussed below.

Rejections under 35 U.S.C. § 112

Claims 1-20 stand rejected under 35 U.S.C. § 112, first paragraph as failing to comply with the enablement requirement. The rejection is respectfully traversed.

The Examiner averred that the specification fails to articulate the structure or elements that constitute the "actuator mounted to the handle and connected to the diverter," as recited in claim 1, and, as a result, the claims contain subject matter which was not described in the specification in a such a way to enable one skilled in the art to which it pertains, or to which it is most nearly connected to make and/or use the invention.

Applicant has amended paragraph [0089] of the published application to specifically state: "The conduit 104 of the handle pivot 98, therefore, functions as an actuator that is mounted to the handle assembly 12 and is connected to the diverter (i.e., the barrel 100), as just described, to move the diverter for conversion of the bare floor cleaner 10 between the dry and

wet modes.” This statement clearly articulates the structure or elements that constitute the “actuator mounted to the handle and connected to the diverter” in the exemplary embodiment, thereby ameliorating the enablement issue.

The amendment to paragraph [0089] adds no new matter to the application. Support for this amendment in the application as filed can be found in original claim 1 and in the published application at:

- paragraph [0012] – “an actuator mounted to the handle and connected to the diverter to move the diverter between the dry suction position and the wet suction position”
- paragraph [0027] – “an actuator connected to the handle and the diverter and adapted to move the diverter between the dry suction position and the wet suction position”

Further, Figs. 3, 19, and 20 and paragraphs [0066], [0067], and [0076] and the rest of paragraph [0089] of the published application, as quoted in Applicant’s Response to the November 25, 2008 Office Action, provide further disclosure of the structure (*i.e.*, the conduit 104) in the exemplary embodiment that constitutes the actuator mounted to the handle and connected to the diverter included in the present amendment to paragraph [0089].

It follows that the amended specification indeed articulates in the description of an exemplary embodiment the structure and elements that constitute the “actuator mounted to the handle and connected to the diverter” as recited in claim 1 and, thereby, provides an enabling disclosure of the claimed subject matter. Applicant respectfully requests withdrawal of the enablement rejection.

Claims 1-20 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The rejection is respectfully traversed.

The Examiner stated that the claims fail to provide any structure or limiting features that define what constitutes the “actuator.” Applicant refers to the remarks provided above with respect to the rejection under the first paragraph of § 112 and the amendment to the specification

at paragraph [0089] of the published application for a showing of the structure and elements (*i.e.*, the conduit 104) that constitute the “actuator” in the exemplary embodiment described in the specification. Further, an actuator is a well-known term used for an element that actuates or activates another element or device, and claim 1 provides some limiting features in that the “actuator” must be mounted to the handle and connected to the diverter and must perform the function of moving the diverter. One of ordinary skill in the art would appreciate the “actuator” of claim 1 and its dependent claims, especially in light of the description of the diverter actuator in the amended specification. Because the scope of the claims would be clear to one of ordinary skill in the art and clear as to what Applicant regards as the invention, Applicant respectfully requests withdrawal of the indefiniteness rejection.

New Claim

Applicant has added new claim 40 as an alternative way to claim the inventive wet/dry bare floor cleaner, particularly the actuation of the diverter. Applicant believes this claim is allowable over the prior art and satisfies the requirements of 35 U.S.C. § 112.

For at least the reasons discussed above, all claims remaining in the application are allowable. Applicant respectfully requests issuance of an Advisory Action. If there are any remaining issues that the Examiner believes may be resolved in an interview, the Examiner is respectfully invited to contact the undersigned.

Respectfully submitted,

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